INSURANCE — GUARANTY INSURANCE — NATURE OF CONTRACT: RELATION TO CONTRACT OF SURETYSHIP. — The defendant company executed a bond guaranteeing the faithful performance of a building contract. The terms of the contract provided that no extra work should be done, except by written order of the owner or architect. During the progress of construction, extras to a large amount were ordered orally. *Held*, that the unauthorized ordering of extras does not discharge the guarantor. *Hormel & Co.* v. *American Bonding Co.*, 128 N. W. 12 (Minn.). See NOTES, p. 568.

INTERSTATE COMMERCE — CONTROL BY STATES — DUTY OF RAILROADS TO FURNISH CARS ON REQUEST. — A federal statute put a general duty on railroads to furnish cars to a shipper upon reasonable request. A state statute specified the manner of the request and penalized the railroad at two dollars per day per car for delay. *Held*, that the state statute is a proper exercise of the police power, and that it does not interfere with the federal right to regulate interstate commerce. *Martin* v. *Oregon R. & Navigation Co.*, 113 Pac. 16 (Or.).

The states can undoubtedly, under their police power, make regulations which may affect interstate commerce, but the line between such regulations and unconstitutional interference is a very thin one. See COOLEY, CONST. LIM., 7 ed., 856. The right of a state to prohibit the importation of cattle from certain districts during specified months has been denied. *Railroad Co.* v. *Husen*, 95 U. S. 465. But the right to keep out cattle from those same districts unless certificates of the state authorities as to their condition are produced, there being no inconsistency with federal regulations, has been supported. *Reid* v. *Colorado*, 187 U. S. 137. A statute very like that in the principal case was said to transcend the state's police power and to impose an unconstitutional burden on interstate commerce because it allowed nothing to excuse the railroad for not furnishing the cars except "strikes or other public calamity." *Houston & Tex. Cent. R. Co.* v. *Mayes*, 201 U. S. 321. In all these cases the state statutes were really amplifications of the broader and more general terms of federal statutes covering the same ground. The exact limits of lawful legislation on this subject cannot be defined. The test of each statute must be its reasonableness. See *Houston & Tex. Cent. R. Co.* v. *Mayes*, 201 U. S. 321, 328.

INTERSTATE COMMERCE — INTERSTATE COMMERCE COMMISSION — REASONABLE RATES. — The Interstate Commerce Commission declared that an advanced rate on lumber between certain points was unreasonable because the long established lower rate had induced the growth of a large lumber industry, the profits of which would be destroyed by the advance. *Held*, that the commission has no power to declare the rate unreasonable on such a ground. *Southern Pacific Co. and Oregon & California R. Co.* v. *Interstate Commerce Commission*, 31 Sup. Ct. Rep. 288.

The commission left unconsidered the reasonableness of the new rate *per se*, and forbade the advance solely on the ground of injustice to capital invested upon the faith of the old rate. The commission itself has denied that hardship on the shipper is sufficient, alone, to make a rate unreasonable. *Oregon & Washington Lumber Mfrs. Ass'n* v. *Union Pacific R. Co.*, 14 Interst. C. Rep. 1, 14. But *cf. New Albany Furniture Co.* v. *M. J. & K. C. R. Co.*, 13 Interst. C. Rep. 594. And the federal courts have held that the commission has no power to rest the propriety of certain rates upon their effect in equalizing the advantages between various manufacturing zones. *Chicago, R. I. & P. Ry. Co.* v. *Interstate Commerce Commission*, 171 Fed. 680. The Supreme Court reversed this case, but its decision was based on the ground that the commission had in fact found the advanced rate unreasonable *per se*, and

that no such power as the lower court rightly disapproved had been assumed. *Interstate Commerce Commission* v. *Chicago, R. I. & P. Ry. Co.*, 218 U. S. 88. Any other decision in the principal case would leave the railroads powerless to raise any rate that had been established long enough to induce the investment of capital upon the faith of it.

LIFE ESTATES — FUTURE INTERESTS IN CHATTELS PERSONAL. — Pictures were bequeathed to trustees upon trust to allow them to be used and enjoyed by A for life, B in tail male. B mortgaged his interest, A living. *Held*, that B's interest was a chose in action only; hence the mortgage was not registrable under the Bills of Sale Acts. *In re Thynne*, [1911] 1 Ch. 282.

This follows a similar previous decision.[1] *In re Tritton*, 6 Morr. Bankr. Cas. 250. See 22 HARV. L. REV. 441. In that case Wills, J., said that the legatee for life had the property in the pictures and that the future interest was an executory bequest. If this were so, a chattel personal bequeathed to A for life would pass to his executor, for A would have the absolute title subject to no executory gift over. The only cases on the point are American; all, except in Delaware, return the chattel to the donor. *Black* v. *Ray*, 1 Dev. & B. (N. C.) 334. See 19 HARV. L. REV. 219. Likewise a bequest to A, a bachelor, for life, then to A's eldest son for life, then to A's second son, would be, as to the second son, too remote if his interest were executory. The cases hold it good. *Evans* v. *Walker*, 3 Ch. D. 211; *Seaver* v. *Fitzgerald*, 141 Mass. 401. Finally, the earlier English decisions upon bequests of chattels personal to A for life and then to B give A the use only and B the property. *Vachel* v. *Vachel*, 1 Ch. Cas. 129; *Hyde* v. *Parrat*, 1 P. Wms. 1. See 2 BL. COMM. 398. Clearly A has only the use and occupation and stands as a bailee for life, while B takes a vested interest in the nature of a remainder. See GRAY, RULE AGAINST PERPETUITIES, 2 ed., §§ 71–98, 789–856; 14 HARV. L. REV. 397. The error of Wills, J., has been shown to arise from overlooking the fact that the artificial presumption that a life estate is longer than a term for years (and that therefore a devise of a term for years to A for life carries the whole term) is not applicable to chattels personal, which may be bailed and the use and occupation of which may be given for life. There is no presumption that a picture will not endure beyond the life of its bailee. See GRAY, RULE AGAINST PERPETUITIES, 2 ed., § 832.

MINES AND MINERALS — EFFECT ON DISSEISOR'S ADVERSE POSSESSION OF SEVERANCE OF MINERAL ESTATE BY DISSEISOR. — The defendant was dispossessed of land by A, who before the Statute of Limitations had run sold all the minerals under said land to the plaintiff by a warranty deed. The plaintiff did not enter, but A continued in possession of the surface of the land beyond the statutory period, and then died. The plaintiff entered into actual possession of the mineral estate and, upon discovering the defendant's claim to an interest therein, brought a bill in equity to quiet title. *Held*, that the plaintiff is entitled to this relief. *Black Warrior Coal Co.* v. *West*, 54 So. 200 (Ala.).

The conveyance of the coal in a piece of land creates in the purchaser an estate in land. *Caldwell* v. *Fulton*, 31 Pa. St. 475. By such a conveyance, a severance is effected between the mineral estate and the surface. See *Caldwell* v. *Copeland*, 37 Pa. St. 427, 430. And it has been held that there may be a severance even by mining by the owner of the freehold. *Delaware & Hudson Canal Co.* v. *Hughes*, 183 Pa. St. 66. See 11 HARV. L. REV. 417. Adverse possession of the surface, begun after a severance of the two estates, does not affect the title to the estate in the minerals. *Plummer* v. *Hillside Coal & Iron Co.*, 160 Pa. St. 483. In the principal case, the defendant contends that A's deed to the plaintiff worked a severance of the minerals from the surface, so that A's possession of the surface no longer affected the title to the coal, and as the plaintiff did not actually enter under the deed, no title to the coal ac-